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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

R.S.A. No. 1263 of 2006

Date of decision: 18.10.2007

Harmail Singh **...Appellant**

Versus

Paramjeet Singh **...Respondent**

CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mr. Narender Hooda, Advocate for the appellant.

Mr. K.K.Bansal, Advocate for the respondent.

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RAJESH BINDAL, J.

The defendant is in appeal before this court against the concurrent findings of fact by both the Courts below whereby suit filed for recovery of Rs. 2,25,000/- on account of damage to the sugarcane crop of the respondent/plaintiff due to fire in the fields of the appellant/defendant which spread to the fields of the respondent/plaintiff was decreed.

Both the Courts below found that respondent/plaintiff had about 14 acres of land with sugarcane crop growing thereon. The appellant/defendant after harvesting paddy crop got the residual put on fire, as a result of which fire spread in the fields of the respondent/plaintiff and damaged the sugarcane crop on account of which the compensation was claimed and awarded.

The case set up by the appellant/respondent was that he was not at the fields at the time when fire was lit and infact he is not responsible for the same. However, still Courts below relying upon the judgment of Hon'ble the Supreme Court in **AIR 1977 Supreme Court 1735** titled as **Pushpabai Parshottam Udeshi and others Vs. M/s Ranjit Ginning and Pressing Co. Pvt. Ltd. and another** and the principle of res ipsa loquitur

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held the appellant/defendant guilty of negligence and accordingly liable to compensate the respondent/plaintiff for the damages caused to his crops.

Learned counsel for the appellant/defendant submitted that principle of res ipsa loquitur could not be applied in the present case as there was no evidence to link the factum of fire being either lit by the appellant or any one else. However, such a plea cannot be accepted simply for the reason that facts speak for themselves. The onus was on the appellant to prove that he was not negligent and the damage infact was caused due to certain other reasons. It is also generally seen that after harvesting the paddy crops residual in the fields is put on fire and thereafter, the ash thereof is mixed with the earth by ploughing the fields.

Accordingly, in these circumstances, I do not find any illegality has been committed by the Courts below in decreeing the suit of the respondent/plaintiff. No substantial question of law arises.

The appeal is dismissed.

October 18, 2007 **(Rajesh Bindal)**
Pka **Judge**